

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Application of ACCENT DELIGHT
INTERNATIONAL LTD. AND XITRANS FINANCE
LTD. for an Order Pursuant to 28 U.S.C. § 1782 to
Conduct Discovery for Use in Foreign Proceedings.

Case No. 16 Misc. 125

**DECLARATION OF DANIEL J. KORNSTEIN
IN SUPPORT OF APPLICATION FOR DISCOVERY**

DANIEL J. KORNSTEIN, an attorney duly admitted to practice in the Southern District of New York, declares under penalty of perjury:

1. I am a partner in the firm of Emery Celli Brinckerhoff & Abady LLP, counsel for Petitioners.

2. I respectfully submit this declaration in support of Petitioners' application for an order under 28 U.S.C. § 1782 to conduct discovery for use in foreign proceedings ("Petitioners' Application").

3. Upon information and belief, all four Respondents reside in this District.

4. None of the Respondents is a party to the foreign proceedings in Monaco, France, or Singapore, and thus none of the foreign tribunals before which proceedings are pending has jurisdiction to acquire from them the document discovery that Petitioners seek here.

5. Given the relevance of the documents sought in this proceeding, Petitioners have good reason to believe that these documents could, and would, be considered in the foreign proceedings.

6. The following documents are cited in the accompanying memorandum of law in support of Petitioners' Application:

a. Attached as Exhibit A is a proposed order granting Petitioners' Application.

- b. Attached as Exhibit B are subpoenas to produce documents, information, or objects addressed to Warren Adelson, Alexander Parish, Robert Simon, and Sotheby's.
- c. Attached as Exhibit C is a list of the Works purchased by Petitioners with Bouvier's assistance.
- d. Attached as Exhibit D is a true and correct copy of an article in the September 2011 edition of *ARTnews* entitled "Rediscovering a Leonardo," downloaded from the website of Robert Simon Fine Art at http://www.robertsimon.com/pdfs/ArtNews_Sept11.pdf.
- e. Attached as Exhibit E is a true and correct copy of a *New York Times* article dated March 9, 2014, entitled "Putting a Price on Leonardo," downloaded from the *New York Times* website at <http://www.nytimes.com/2014/03/10/arts/international/10iht-Putting-a-Price-on-Leonardo.html>.
- f. Attached as Exhibit F is a true and correct copy of Sotheby's Valuation Number 70256564, dated January 28, 2015, for Leonardo da Vinci's *Christ as Salvator Mundi*.
- g. Attached as Exhibit G is a true and correct copy of an English translation of a November 2011 email exchange between Mikhail Sazonov and Yves Bouvier, which includes a forwarded message from Samuel Valette, Senior Director and Senior International Specialist for Impressionist and Modern Art at Sotheby's.
- h. Attached as Exhibit H is a true and correct copy of an English translation of a September 2013 email exchange between Mikhail Sazonov and Yves Bouvier.

- i. Attached as Exhibit I is a true and correct copy of Sotheby's Valuation Number 70254249, dated October 24, 2014, for Gustav Klimt's *Wasserschlangen II* (Water Serpents II).
- j. Attached as Exhibit J is a true and correct copy of an English translation of an execution of a letter rogatory by Commander Frédéric Fusari of the Criminal Investigation Department of the Police Department of Monaco.
- k. Attached as Exhibit K is a true and correct copy of Sotheby's Valuation Number 70254246, dated October 24, 2014, for Henri Matisse's *Nu au Chale Vert* (Nude with a Green Shawl).
- l. Attached as Exhibit L is a true and correct copy of an English translation of a criminal complaint, dated January 9, 2015, lodged by Petitioners in Monaco.
- m. Attached as Exhibit M is a true and correct copy of a letter, dated February 27, 2015, sent on behalf of Petitioners to an investigating magistrate in Monaco, together with an English translation.
- n. Attached as Exhibit N is a true and correct copy of an English translation of an article in *Le Point* dated September 14, 2015, entitled "A Swiss Art Dealer Is Indicted in a Case of Theft of Picasso Art Works."
- o. Attached as Exhibit O is a true and correct copy of the Judgment of the Court of Appeal of Singapore, dated August 21, 2015, in *Accent Delight Int'l Ltd. and Xitrans Finance Ltd. v. Bouvier, MEI Invest Ltd and Rappo*, Civil Appeal No. 80 of 2015 (Court of Appeal of the Republic of Singapore).

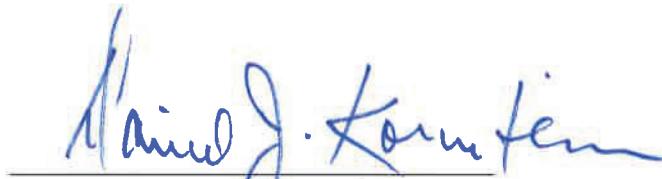
p. Attached as Exhibit P is a true and correct copy of Sotheby's Valuation Number 70254251, dated October 24, 2014, for Amedeo Modigliani's *Nu couché au coussin bleu*.

q. Attached as Exhibit Q is a true and correct copy of an amended Order dated December 9, 2015, granting in part and denying in part the application of Yves Bouvier and MEI Invest Ltd. for an order pursuant to 28 U.S.C. § 1782 to conduct discovery for use in foreign proceedings. *See* ECF No. 22, 1:15-MC-00312-DLC (S.D.N.Y. Dec. 9, 2015).

r. Attached as Exhibit R is a true and correct copy of an Order dated December 11, 2015, granting in part and denying in part the application of Yves Bouvier and MEI Invest Ltd. for an order pursuant to 28 U.S.C. § 1782 to conduct discovery for use in foreign proceedings. *See* ECF No. 28, 1:15-MC-00312-DLC (S.D.N.Y. Dec. 11, 2015).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: March 25, 2016
New York, New York



Daniel J. Kornstein